

§ 490.706

(c) A fleet or covered person that is a biodiesel alternative fuel provider described in section 490.303 of this part may use its credits allocated under this subpart to satisfy all of its alternative fueled vehicle requirements under section 490.302.

(d) A fleet or covered person may not trade or bank biodiesel fuel credits.

[64 FR 27174, May 19, 1999, as amended at 66 FR 2210, Jan. 11, 2001]

§ 490.706 Procedure for modifying the biodiesel component percentage.

(a) DOE may, by rule, lower the 20 percent biodiesel volume requirement of this subpart for reasons related to cold start, safety, or vehicle function considerations.

(b) Any person may use the procedures in section 490.6 of this part to petition DOE for a rulemaking to lower the biodiesel volume percentage. A petitioner should include any data or information that it wants DOE to consider in deciding whether or not to begin a rulemaking.

§ 490.707 Increasing the qualifying volume of the biodiesel component.

DOE may increase the qualifying volume of the biodiesel component of fuel for purposes of allocation of credits under this subpart only after it:

(a) Collects data establishing that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents; and

(b) Conducts a rulemaking to amend the provisions of this subpart to change the qualifying volume to the average annual alternative fuel use.

§ 490.708 Violations.

Violations of this subpart are subject to investigation and enforcement under subpart G of this part.

Subpart I—Alternative Compliance

SOURCE: 72 FR 12964, Mar. 20, 2007, unless otherwise noted.

§ 490.801 Purpose and scope.

This subpart implements section 514 of the Act (42 U.S.C. 13263a) which per-

10 CFR Ch. II (1–12 Edition)

mits States and alternative fuel providers to petition for alternative compliance waivers from the alternative fueled vehicle acquisition requirements in subparts C and D of this part, respectively.

§ 490.802 Eligibility for alternative compliance waiver.

Any State subject to subpart C of this part and any covered person subject to subpart D of this part may apply to DOE for a waiver from the applicable alternative fueled vehicle acquisition requirements.

§ 490.803 Waiver requirements.

DOE grants a State or covered person a waiver:

(a) If DOE determines that the State or covered person will achieve a reduction in petroleum consumption, through eligible reductions as specified in § 490.804 of this subpart, equal to the amount of alternative fuel used if the following vehicles were operated 100 percent of the time on alternative fuel during the model year for which a waiver is requested:

(1) Previously required alternative fueled vehicles in the fleet's inventory at the start of the model year for which a waiver is requested;

(2) Alternative fueled vehicles that the State or covered person would have been required to acquire in the model year for which a waiver is requested, and in previous model years in which a waiver was granted, absent any waivers;

(b) The State or covered person is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 *et seq.*); and

(c) The State or covered person is in compliance with all applicable requirements of this subpart.

§ 490.804 Eligible reductions in petroleum consumption.

(a) *Motor vehicles.* Demonstrated reductions in petroleum consumption during the model year for which a waiver is requested that are attributable to motor vehicles owned, operated, leased or otherwise under the control of a State or covered person are

Department of Energy

§ 490.805

applicable towards the petroleum fuel reduction required in § 490.803(a) of this subpart.

(b) *Qualified nonroad vehicles.* Demonstrated reductions in petroleum consumption during the model year for which a waiver is requested that are attributable to nonroad vehicles owned, operated, leased or otherwise under the control of a State or covered person acquired during waiver years are applicable towards the petroleum fuel reduction required in § 490.803(a) of this subpart:

(1) If acquisition of the nonroad vehicles leads directly to the establishment or upgrading of refueling or recharging infrastructure during a waiver year that would also allow for increased petroleum replacement by serving the fleet's on-road light-duty vehicles; and

(2) To the extent that additional reductions attributable to motor vehicles are not reasonably available.

(c) *Rollover of excess petroleum reductions.* (1) Petroleum reductions achieved by a fleet in excess of the amount required for alternative compliance in a previous model year are applicable towards the petroleum fuel reduction requirements for that fleet under § 490.803(a) of this subpart upon approval by DOE.

(2) Requests for approval to apply rollover reductions to future model years for which a waiver is requested must be made to DOE in writing as part of the reporting requirement specified in § 490.807 of this subpart.

(3) DOE will apply approved rollover reductions to a model year for which a waiver was granted but the required reduction in petroleum use was not achieved only to the extent that additional reductions attributable to motor vehicles were not reasonably available.

(4) Following receipt of a request to roll over excess petroleum reduction, DOE notifies the State or covered person of the amount of petroleum reduction that may be applied to a future model year's petroleum reduction requirement.

(5) Excess petroleum reductions are not tradable.

(d) *Ineligible reductions.* The petroleum reduction plan required by paragraph (c)(4) of this section must not include reductions in petroleum attrib-

utable to incentives for third parties to reduce their petroleum use, petroleum reductions that are not transportation-related, or petroleum reductions attributable to non-qualified nonroad vehicles.

§ 490.805 Application for waiver.

(a) A State or covered person must apply for a waiver applicable to an entire fleet for a full model year in accordance with the deadlines specified in paragraph (b) of this section. DOE will not grant a waiver for less than an entire fleet or less than a full model year.

(b)(1) A State or covered person must register a preliminary intent to apply for a waiver by March 31 prior to the model year for which a waiver is sought.

(2) If a complete waiver application is dependent on information regarding the availability of motor vehicle models to be released by motor vehicle manufacturers, the waiver application must be received by DOE no later than July 31 prior to the model year for which a waiver is sought.

(3) If a complete waiver application is not dependent on information regarding the availability of motor vehicle models to be released by motor vehicle manufacturers, the waiver application must be received by DOE no later than June 30 prior to the model year for which a waiver is sought.

(c) A waiver application must include verifiable data that is sufficient to enable DOE to determine whether the State or covered person is likely to achieve the amount of petroleum reduction required for alternative compliance and whether the fleet is in compliance with Clean Air Act vehicle emission standards. At a minimum, the State entity or covered person must provide DOE with the following information:

(1) The model year for which the waiver is requested;

(2) The total number of required alternative fueled vehicle acquisitions in the fleet including:

(i) The number of alternative fueled vehicle acquisitions that the State or covered person would, without a waiver, be required to acquire during the